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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER				
STOUTER, KELLY M				
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1792				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/772,893

Applicant(s)

NARWANKAR ET AL.

Examiner

KELLY STOUFFER

Art Unit

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 4, 6-12, 14, 15, 17-22, 24, 26-32, 38, 39, 41 and 42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 4, 6-12, 14, 15, 17-22, 24, 26-32, 38, 39, 41 and 42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/17/08
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 17 September 2008 have been fully considered but they are not persuasive. The applicant argues that Bernashel teaches too broad of a range of pressures to teach less than 10 torr. However, the ultra-low pressure is taught in column 2 lines 60-64, where 1000Pa = 7.5 torr, which is within the claimed range. The applicant further argues that Bernashel does not teach the claimed temperature range. However, the RTP process described in Bernashel et al. uses the claimed temperatures (column 1 lines 35-55). Bernashel teaches the claimed temperatures in a RTP process involving NO but does not find the claimed temperature range desirable because it does not localize enough nitrogen at the interface between the substrate and the gate oxide layer (column 1 lines 47-55). However, one of ordinary skill in the art would recognize that Bernashel can be modified to this temperature depending on the amount of nitrogen desired at the interface between the substrate and the gate oxide layer. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the temperatures of Bernashel within the claimed ranges, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 105 USPQ 223 (CCPA 1955).

Therefore, the previous rejection is maintained.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1, 3-4, 6-9, 12, 14-15, 17, 24, 26-28, 31, 38-39 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bensahel et al. (WO99/043023 --

US Patent 6372581 to Benashel et al. is used as a translation of WO99/043023 for the purposes of this rejection as it is a 35 USC 371 application of WO99/043023)

As to claim 1, Bensahel et al. discloses a method of forming nitrogen-containing dielectric film comprising incorporating nitrogen into a dielectric film using NH_3 (column 1 lines 23-25 – though it is not preferred its utility as a nitriding gas is disclosed and may be interchanged with NO used in Bensahel) and a RTP anneal wherein the nitrogen forms on peak on the surface of the dielectric film (Figures 2 and 3, also examples). Using ammonia instead of NO in Bernashel would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. And further, using ammonia instead of NO in Bernashel would have been obvious because “a person of ordinary skill has good reason to pursue the known options with his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.” In this case, Bernashel gives a finite number of options for nitriding gases in column 1 et seq.: ammonia, NO and N_2O . See *KSR International Co. V. Teleflex Inc.* 550 U.S.--, 82 USPQ2d 1385 (2007). The ultra-low pressure is taught in column 2 lines 60-64, where 1000Pa = 7.5 torr.

As to claim 3, Bensahel et al. desires localization of the nitrogen to the interface of the nitrified film. Though the percentage of nitrogen present is not explicitly stated by Benashel, one of ordinary skill in the art would recognize that the amount of nitrogen present in the film will be minimized until this is achieved, absent evidence showing

criticality for the percentage of nitrogen claimed. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 105 USPQ 223 (CCPA 1955).

As to claim 4, the film is less than or equal to 12 angstroms (column 3 et seq.).

As to claim 6, the dielectric is silicon dioxide (column 2 lines 60-67).

As to claim 7, silicon oxynitride is formed (column 2 lines 60-67).

As to claim 8, the limitations are taught as discussed above, and Benashel et al. additionally discloses an oxide capping layer in the Examples.

As to claim 9, the RTP process described in Bensahel et al. uses the claimed temperatures (column 1 lines 35-55). , Bernashel teaches the claimed temperatures in a RTP process involving NO but does not find the claimed temperature range desirable because it does not localize enough nitrogen at the interface between the substrate and the gate oxide layer (column 1 lines 47-55). However, one of ordinary skill in the art would recognize that Bernashel can be modified to this temperature depending on the amount of nitrogen desired at the interface between the substrate and the gate oxide layer. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the temperatures of Bernashel within the claimed ranges, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 105 USPQ 223 (CCPA 1955).

As to claim 12, Bensahel et al. includes the provisions of the process as discussed in claim 1 and a post annealing process (column 3 lines 1-5).

As to claim 14, Bensahel et al. desires localization of the nitrogen to the interface of the nitrified film. Though the percentage of nitrogen present is not explicitly stated by Bensahel, one of ordinary skill in the art would recognize that the amount of nitrogen present in the film will be minimized until this is achieved, absent evidence showing criticality for the percentage of nitrogen claimed. It has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 220 F.2d 454, 105 USPQ 223 (CCPA 1955).

As to claim 15, the film is less than or equal to 12 angstroms (column 3).

As to claim 17, the dielectric is silicon dioxide (column 2 lines 60-67).

As to claims 24, 26-28, 31, and 38-42 the limitations are disclosed as discussed above.

Claims 10, 11, 29, 30 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bensahel et al. in view of Niimi et al. (US Patent Publication 2002/0197884 A1)

Bensahel et al. includes the limitations of claims 10, 11, 29, 30 and 32 as discussed above except for using annealing in a non-nitridation atmosphere as the post anneal process. Niimi et al. teaches a post anneal annealing process under re-oxidizing

conditions to reduce defect density of the layer and improve channel carrier mobility (also see process parameters as discussed above for this process in Niimi et al.).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Bensahel et al. to include a post anneal annealing process under re-oxidizing conditions as taught by Niimi et al. in order to reduce defect density of the layer and improve channel carrier mobility.

Claims 18-22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bensahel et al. in view of US Patent Publication 2002/0119674 A1 to Thakur.

Bensahel et al. discloses the limitations of claims 18-23 and 36 as discussed above except for using a cluster tool in the manner claimed. Thakur teaches clustering various steps in a similar process in the manner claimed in order to reduce contamination in the oxide and other layers (paragraphs 0008 and 0034).

It would have been obvious to modify Bensahel et al. to include using a cluster tool in the manner claimed as taught by Thakur in order to reduce contamination in the oxide and other layers.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KELLY STOUFFER whose telephone number is (571)272-2668. The examiner can normally be reached on Monday - Thursday 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner
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kms

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